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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Takashi FUJITA et al.** Art Unit: **1797**

Application Number: **10/561,538** Examiner: **Xiaoyun Xu**

Filed: **December 19, 2005** Confirmation Number: **9367**

For: **SPECIFIC COMPONENT MEASURING METHOD BY SPECTRAL MEASUREMENT**

Attorney Docket Number: **053362**
Customer Number: **38834**

RESPONSE TO RESTRICTION AND SPECIES REQUIREMENTS

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

December 17, 2008

Sir:

In response to the restriction requirement dated November 17, 2008, applicants provisionally elect Group I (claims 1-7, 14, 16 and 17).

This Action also requires an election of species in item 2 of the Action. Applicants elect Species (1) a mechanism for covering the surface of the solution with liquid which is insoluble in the solution and spreads over surface of the solution.

A further election of species is required in item 5 of the Action. Applicants elect Species (3) a material having a static electricity elimination effect.

It is believed that claims 1-7, 14, 16 and 17 read on the elected species. This election is respectfully made with traverse.

The Examiner asserts that "McCaffrey (US2001/0038450) teaches that the photo-detecting transducers used for detecting luminescence are very sensitive to static charge. McCaffrey teaches that conventionally, a sample chamber (compartment) of known devices must

be made of a conductive material or some other means must be provided to remove static charge from the sample chamber. Thus the combination of the light detector and the structure for preventing static charge interfering are well known in the art, and therefore is not a special technical feature."

In the past, it is known that "the photo-detecting transducers used for detecting luminescence are very sensitive to static change," and "a sample chamber (compartment) of known devices must be made of a conductive material or some other means must be provide to remove static charge from the sample chamber." Therefore, "a method for avoiding the influence of incorrect electric current by grounding of the photoelectric converter et al. have been employed" (specification [0003] of the present invention).

"However, even though these procedures are performed, problems which are disturbed the high-accuracy measurement of the objective component remains, since background value varies by each measurement. Therefore, correct values cannot be obtained unless a calibration curve showing the relationship between the signal values and the concentrations of the objective component obtained by measuring the signal value using standard of the objective component containing known concentrations as a sample is established for each measurement." (paragraph number [0004] of the present specification).

That is, as shown in McCaffrey, the fact that "a sample chamber (compartment) of known devices must be made of a conductive material or some other means must be provided to remove static charge from the sample chamber" is recognized for person skilled in the art, and therefore, "the combination of the light detector and the structure for preventing static charge interfering"

such as a method for avoiding the influence of incorrect electric current by grounds has been performed.

However, "the structure for preventing static charge interfering" as prior art could not provide satisfied effects.

The above problem is solved by the present invention for the first time, and it is clear from the result of Example 3 of the present specification.

That is, the following photometry chambers are prepared in the Example 3:

(1) photometry chamber of which aluminum foil was set at the undersurface (prior art; grounds)

(2) photometry chamber of which an anti-static tape was attached on four inside wall surfaces (present invention)

(3) photometry chamber without aluminum foil nor anti-static tape (control)

Then the luminescence was measured using the measuring instrument with the above prepared photometry chambers.

As is clear from the results shown in Table 4, background value can not be suppressed even though the electric charge of the reagent cartridge is removed by setting the aluminum foil at the undersurface of the photometry chamber (The value of versus Control is high.). . . .That is, it is understood from the result that background value cannot be suppressed even though the grounding is set in the photometry chamber. On the other hand, background value can be suppressed by attaching an anti-static sheet in the photometry chamber even without grounding (paragraph number [0096] of the present specification).

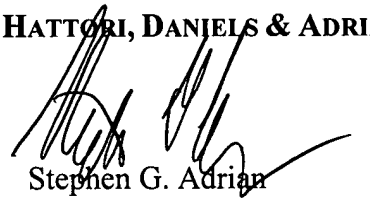
As is clear from above results, "means which can prevent the effect of static charge" can be established by the present invention, and the effect is the unexpectedly superior effect from the disclosure of McCaffrey.

The applicant respectfully requests an early examination on the elected claims and favorable action on the merits. If the Examiner has any questions with this Response, please feel free to call the undersigned at the indicated telephone number.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



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